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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,934	11/26/2001	Masayuki Itakura	OHT-0001	5436
7590 05/03/2005				
RADER, FISHMAN & GRAUER, PLLC				
Suite 501				
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Washington, DC 20036				
			EXAMINER	
			BUTLER, DOUGLAS C	
			ART UNIT	PAPER NUMBER
			3683	

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/991,934	ITAKURA, MASAYUKI	
	<b>Examiner</b>	<b>Art Unit</b>	
	Douglas C. Butler	3683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 6,14-16 and 23,25-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15,16 and 23 is/are allowed.
- 6) ☒ Claim(s) 6,14 and 25-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. Upon further consideration and in view of applicant's petition, the election requirement is withdrawn. In that the election requirement is withdrawn, applicant is encouraged to submit any additional claims to the various embodiments necessary for adequate coverage. This action is not made final in order to provide applicant with an opportunity to present any claims applicant considers appropriate to provide applicant with a full and fair hearing on issues dealing with patentability.

2. Claims 15-16, 23 are allowed.

3. Claims 1-5, 7-13, 17-22, 24 have been canceled.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 6 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There are no clear antecedent bases in the claims for "the damper housing" of claim 6, lines 5-6 [Note claim 6, line 4 recites "a casing".] and "the opening side end portion of the damper housing" of claim 6, fourth from the last line. Note that the "portion" is doubly claimed in claim 6 at line 4 and lines 11-12. Re claim 14 which is dependent on claim 6, "a metal portion" is recited in line 2. See claim 6, line 12 which recites "a metal portion". The "metal portion" of claim 14, line 2 should be correlated with and/or distinguished from the "metal portion" of claim 6, line 12.

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Note that "said metal portion" of claim 14, last line lacks a clear antecedent basis in the claims in that "a metal portion" is recited in claim 14, line 2 and in parent claim 6, line 12.

6. Claims 25-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is no clear antecedent basis in claim 25 for "the vibration preventing damper forming portion" of claim 25, penultimate line.

7. Claim 27 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is no clear antecedent basis in claim 27 for "the ... damper" of claim 27, lines 3-4 in that claim 27, line 1 recites "damper" as an adjective or adverb before the noun "method". Also, there are no clear antecedent bases in claim 27 for "the ... damper" of claim 27, lines 13-14, "the opening of the damper housing" of claim 27, line 16 and "the ... damper" of claim 27, line 20.

8. Claims 28, 32/28, 33/28, 34/28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There are no clear antecedent bases in the claims for "the ... damper" of claim 28, line 12, claim 32/28, lines 2-3, 3, 4, claim 33/28, lines 5-6.

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There is no clear antecedent basis in the claims for "the inserted support shaft" of claim 33/28, line 3.

A double inclusion problem exists in claim 34/28 in that "a vibration preventing damper forming portion" is recited in claim 34/28, lines 3-4 and also in parent claim 28, lines 3-4.

9. Claims 30, 32/30, 33/30, 34/30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is no clear antecedent basis in claim 30 for "the ... damper" of claim 30, line 11. Claim 30, lines 3-4 recites, the "portion" as opposed to a vibration preventing damper with a portion formed.

Re claims 32/30, 33/30, 34/30 there are no clear antecedent bases in the claims for "the ... damper" of claim 32/30, lines 2-3, 3, 4, claim 33/30, last two lines.

A double inclusion problem exists in claim 34/30 by the double recitation of "a vibration preventing damper forming portion" in both claim 34/30, lines 3-4 and parent claim 30, lines 3-4.

10. Claim 29 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There are no clear antecedent bases in claim 29 for "the vibration ... damper" of claim 29, lines 3-4 and penultimate line, and for "the opening ... housing" of claim 29, line 15.

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11. Claim 31 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There are no clear antecedent in claim 31 for "the plate thickness" of claim 31, line 3 and "the opening" of claim 31, line 15.

12. Claims 6, 14 and 25-34 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

13. Salerno et al disclose a method of making a damper.

14. The Abstract of the Disclosure should be amended to omit the use of legal terms such as "means". See line 11 of the Abstract. Also, the reference numerals should be enclosed within parentheses.

15. Re Figs. 5A-5C and 6A-6C, new sheets of drawings to omit the handwritten changes which will improve the appearance when the application is passed to issue.

**16. INFORMATION ON HOW TO EFFECT DRAWING CHANGES**

**Replacement Drawing Sheets**

Drawing changes must be made by presenting replacement sheets which incorporate the desired changes and which comply with 37 CFR 1.84. An explanation of the changes made must be presented either in the drawing amendments section, or remarks, section of the amendment paper. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). A replacement sheet must include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of the amended drawing(s) must not be labeled as "amended." If the changes to the drawing figure(s) are not accepted by the examiner, applicant will be notified of any required corrective action in the next Office action. No further drawing submission will be required, unless applicant is notified.

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Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and within the top margin.

### **Annotated Drawing Sheets**

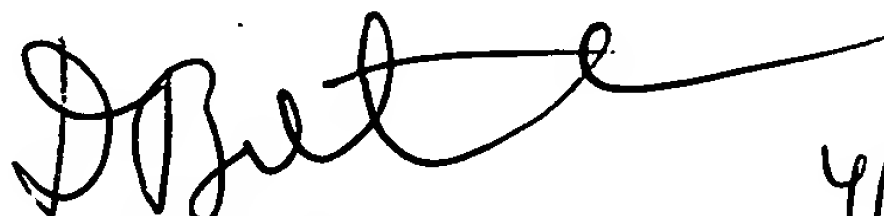
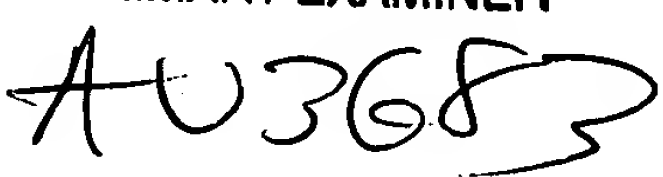
A marked-up copy of any amended drawing figure, including annotations indicating the changes made, may be submitted or required by the examiner. The annotated drawing sheet(s) must be clearly labeled as "Annotated Sheet" and must be presented in the amendment or remarks section that explains the change(s) to the drawings.

### **Timing of Corrections**

Applicant is required to submit acceptable corrected drawings within the time period set in the Office action. See 37 CFR 1.85(a). Failure to take corrective action within the set period will result in ABANDONMENT of the application.

If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings MUST be filed within the THREE MONTH shortened statutory period set for reply in the "Notice of Allowability." Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136 for filing the corrected drawings after the mailing of a Notice of Allowability.

17. Any inquiry concerning this communication should be directed to Exmr Butler at telephone number 571-272-7115.

  
DOUGLAS C. BUTLER  
PRIMARY EXAMINER  
 4/23/05

Butler/vs  
April 18, 2005